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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,768	11/20/2003	Jay C. Landsiedel	US20030359	8877

173 7590 03/25/2005

WHIRLPOOL PATENTS COMPANY - MD 0750
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ST. JOSEPH, MI 49085

EXAMINER

STINSON, FRANKIE L

ART UNIT	PAPER NUMBER
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1746

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/717,768	Applicant(s) LANDSIEDEL ET AL.	
	Examiner FRANKIE L. STINSON	Art Unit 1746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 9-12 and 28-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 13, 14, 20-27, 32, 33 and 39 is/are rejected.
- 7) ☒ Claim(s) 15-19 and 34-38 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Claims 9-12 and 28-31 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on February 10, 2005.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-8, 13, 14, 21, 23-27, 29, 32 and 33 rejected under 35 U.S.C. 103(a) as being unpatentable over Japan 11-47066 in view of Berford.

Re claims 1 and 21, Japan'066 is cited disclosing

a tub (10) comprising a peripheral wall defining an open-faced wash chamber;

a door (11) for selectively closing the open-face of the wash chamber;

a basket (2a) positionable within the wash chamber and comprising a bottom wall, a peripheral wall extending upwardly from the bottom wall to define an open-top utensil holding space, and multiple tines (see fig. 2) located in the utensil holding space for holding utensils placed in the basket for washing;

a water spray assembly (3a) located within the wash chamber such that the water sprays liquid into the utensil holding space through the bottom wall of the basket;

at least one side sprayer (3b) located in the wash chamber; and

an adjustable utensil carrier (9b) located within the utensil holding space and adjustable relative to the bottom of the basket to form an inclination angle relative to the

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bottom wall of the basket such that a utensil supported by the adjustable utensil carrier can be positioned such that a food contact surface of the utensil is exposed to direct spray from both the water spray assembly and the at least one side sprayer. That differs from the claims only in the recitation of the side sprayer spraying laterally. Berford is cited disclosing the lateral spray (7) as claimed. It therefore would have been obvious to one having ordinary skill in the art to modify device of Japan'066 to include a lateral side spray as taught by Berford, for the purpose of ensuring that proper fluid is provided to the interior of the utensil. It is old and well known in the art that various kitchen utensil are often of bowl or container shaped for containing food product therein, and it is the inside food contact surface of the utensil that receives the most soiling and thusly requires the greater cleaning. Re claim 3, Japan'066 discloses the storing and loading positions. Re claims 4 and 23, Japan'066 and Berford disclosed the acute angle. Re claims 5 and 24, Japan'066 disclose the adjustable utensil carrier being stored generally perpendicular (see fig.8). Re claims 6, 7, 25 and 26 Japan'066 discloses the utensil basket being pivotally/hingedly mounted to the basket peripheral wall. Re claims 8 and 27, Japan'066 discloses the wire frame. Re claims 20 and 39, Japan'066 discloses the utensil support holding a cooking utensil. Re claims 13, 14, 32 and 33 Japan'066 inherently discloses an actuator. Re claim 33, to employ an actuator as instantly claimed is deemed to be an obvious matter of design (see MPEP 2144.06 SUBSTITUTING EQUIVALENTS KNOWN FOR THE SAME PURPOSE). Claims 2 and 32 define over the applied prior art only in the recitation of the in the recitation of the specific angle being 35 degrees. Although not specifically described in Japan'066, to

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employ the angle as claimed is deemed to be an obvious matter of design and not patentable distinct for the angle as taught by Japan'066 (see MPEP 2144.06

SUBSTITUTING EQUIVALENTS KNOWN FOR THE SAME PURPOSE).

4. Claims 15-19 and 34-38 stand objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In Franklin, Large, Stantiz et al., Hertz, Abresch et al., Smith, Germany'559, Japan'254, Mason, Germany'484, Ellington et al., Hazard et al., Remmler, and Harris, note the basket and spray means.

6. Applicant's arguments with respect to claims 1-39 have been considered but are moot in view of the new ground(s) of rejection.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANKIE L. STINSON whose telephone number is (572) 272-1308. The examiner can normally be reached on M-F from 5:30 am to 2:00 pm and some Saturdays from approximately 5:30 am to 11:30 am.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr, can be reached on (571) 272-1700. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

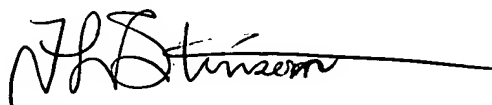
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

fls

A handwritten signature in black ink, appearing to read "Frankie L. Stinson", with a long horizontal line extending to the right.

FRANKIE L. STINSON
Primary Examiner
GROUP ART UNIT 1746